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Henry C. Query Jr  
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In re Application of	:	
LE DEVEHAT, Renaud	:	
Application No.: 10/554,040	:	DECISION
PCT No.: PCT/EP2004/004527	:	
Int. Filing Date: 20 April 2004	:	ON PETITION UNDER
Priority Date: 23 April 2003	:	
Docket No.: FMCE-P138	:	37 CFR 1.10(e)
For: DISCHARGE ARM ASSEMBLY	:	
WITH GUIDING CABLE	:	

This decision is in response to applicant's Petition Under 37 CFR 1.10(e), filed in the United States Patent and Trademark Office on 30 April 2007.

**BACKGROUND**

On 20 April 2004, applicant filed international application PCT/EP2004/004527, claiming a priority date of 23 April 2003. A copy of the international application was transmitted to the Office by the International Bureau on 04 November 2004. The deadline for entry into the national stage in the United States was 23 October 2005.

On 21 October 2005, applicant filed a transmittal letter for entry into the national phase in the United States, accompanied by the basic national fee.

On 24 July 2006, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration and the surcharge for late filing of the search fee, examination fee or oath or declaration were required.

On 02 April 2007, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that a response had not been received to the Notification of Missing Requirements and that the application was now abandoned.

On 30 April 2007, applicant filed a petition under 37 CFR 1.10(e).

**DISCUSSION**

37 CFR 1.10(e) applies only in those situations in which the correspondence at issue was lost *in toto* (i.e., the entire correspondence was not delivered to the Office). MPEP 513. Here, applicant claims to have filed the \$130 late filing fee along with the declaration. The Office received the late filing fee. As such, this is a dispute over the content of the submission.

Where the records of the Office (e.g., the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in absence of convincing evidence (e.g., a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. *Id.*

### **CONCLUSION**

For the reasons set forth above, the petition under 37 CFR 1.10(e) is **DISMISSED** without prejudice.

This application remains abandoned.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(e)."

Any further correspondence with respect to this matter may be filed electronically or if mailed, should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/Erin P. Thomson/

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